

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ROBERT J. WILTSE,

Plaintiff,

v.

CONNOR SELVEY,

Defendant.

ORDER

21-cv-813-wmc

ROBERT J. WILTSE,

Plaintiff,

v.

PORTAGE COUNTY, JACOB WILLS,
NICOLE LUKAS and LOUIS MOLEPSKE,

Defendants.

ORDER

23-cv-33-wmc

Plaintiff Robert Wiltse contends that the Portage County Sheriff's Department forced him to submit to a blood draw without a warrant, in violation of his rights under the Fourth Amendment. He initially sued only defendant Connor Selvey, the officer who transported him to the hospital and directed a phlebotomist to perform the blood draw, but he later filed a motion to amend his complaint to add claims against three additional defendants: Lieutenant Jacob Wills, Officer Nicole Lukas and former District Attorney Louis Molepske. (21-cv-813; dkt. #8.) Before the court resolved that motion, the parties filed cross-motions for summary judgment. ('813; dkts. ##16, 21.) Meanwhile, concerned about the expiration of the statute of limitations, plaintiff filed a second case raising his

claims against Wills, Lukas and Molepske (22-cv-33-wmc), as well as a motion to consolidate that second case with this first-filed action.

Having reviewed the parties' arguments regarding plaintiff's motion to amend, as well as the parties' summary judgment materials, the court concludes that plaintiff's motion to amend should be granted in the interests of justice, under Federal Rule of Civil Procedure 15(a)(2). One of defendant Selvey's primary defenses to plaintiff's Fourth Amendment claim is the "extraordinary circumstances" doctrine, and on the advice and instruction he received from Lieutenant Wills and District Attorney Molepske in particular. Litigating plaintiff's claims against these individuals in two separate cases would be highly inefficient and would increase the risk of inconsistent or unfair results. Moreover, the prejudice to defendant Selvey is minimal. Accordingly, plaintiffs' motion to amend his complaint will be granted, and the parties' current cross-motions for summary judgment will be denied without prejudice, subject to renewal after additional discovery involving the newly added defendants. This case shall proceed according to the schedule set in the newly filed case ('33; dkt. #15), with dispositive motions due November 9, 2023, and trial on May 14, 2024. The second-filed case shall be dismissed as duplicative.

ORDER

IT IS ORDERED that:

1. Plaintiff Robert J. Wiltse's motion for leave to file an amended complaint (21-cv-813; dkt. #8) is GRANTED.
2. The parties' cross-motions for summary judgment ('813; dkts. ##16, 21) are DENIED without prejudice.

3. This case shall proceed according to the schedule set in dkt. #15 in case no. 23-cv-33-wmc.
4. Case no. 23-cv-33-wmc is DISMISSED as duplicative, and the clerk of court is directed to close that case.

Entered this 28th day of March, 2023.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge